

REMARKS

This application pertains to a novel separation module.

Claims 1, 2 and 4-26 are pending; claim 3 being cancelled by this amendment.

The limitations of claim 3 have been added to claim 1.

Claims 1, 2, 7, 11-16 and 26 stand rejected under 35 U.S.C. 102(b) as anticipated by Bellhouse (U.S. 6,217,764). Claim 3 is not included in this rejection however, and the limitations of claim 3 have been added to claim 1. Claim 1 is therefore now an independent form of claim 3, and as such is believed to be free of this rejection. Since all remaining claims are dependent from claim 1 (i.e., from the independent form of claim 3), they too are believed to be free of this rejection.

The rejection of claims 1, 2, 7, 11-16 and 26 under 35 U.S.C. 102(b) as anticipated by Bellhouse (U.S. 6,217,764) should therefore now be withdrawn.

Claims 3-6 and 8-9 stand rejected under 35 U.S.C. 103(a) as obvious over Bellhouse (US 6,217,674), because the Examiner thinks it would be obvious to modify Bellhouse's system to specific internal and external diameters, such as those recited in Applicants' claims.

Applicants have previously pointed out that it would be impossible to modify Bellhouse's system as the Examiner suggests. To this the Examiner responds that:

It has been held in the Court where the general conditions of a claim are disclosed in the prior, discovering the optimum or workable ranges involves only routine skill in the art

and this is apparently the legal theory upon which the Examiner bases the rejection.

Critical to the Examiner's analysis however is the proposition that the prior art discloses the general conditions of the claim. The Examiner overlooks that the instant reference does not disclose the general conditions of the claim. Bellhouse's ducts are essentially holes passing through in a porous block of support material. As such, Bellhouse's ducts do not have any defined external diameters. Since Bellhouse does not have any external diameter, the concept of external diameter is not "generally disclosed" and cannot be optimized.

Applicants' capillaries are individual tubes, having structures which are defined by their internal and external diameters; the difference between the two being a defined wall thickness. The tubes, although grouped together in bundles, are free-standing tubes. One could, for example, separate the bundle into individual tubes and hold a tube in the hand. Applicant's tubes are individual discrete structures. This is not the case with the ducts of the Bellhouse reference. As holes or passageways through the porous block 10, Bellhouse's ducts have no structure in and of themselves. Bellhouse's "ducts" and different than and non-suggestive of Applicants' capillaries.

More to the point, there is no way that the ducts of the Bellhouse reference could

be modified to arrive at Applicants capillaries. How can you "modify" an external diameter to a specific measurement when no external diameter exists in the first place? No one can modify something that does not exist! Should the Examiner persist in his argument that they can be so modified, and that it would be obvious to do so, he is respectfully requested to explain how such a modification could be accomplished. Applicants' do not believe it would be possible to do so, and that the present claims cannot reasonably be seen as obvious over Bellhouse.

The rejection of claims 3-6 and 8-9 under 35 U.S.C. 103(a) as obvious over Bellhouse (US 6,217,674) should accordingly now be withdrawn.

In view of the present amendments and remarks it is believed that claims 1, 2 and 4-26 are now in condition for allowance. Reconsideration of said claims by the Examiner is respectfully requested and the allowance thereof is courteously solicited. Should the Examiner not deem the present amendment and remarks to place the instant claims in condition for allowance, it is respectfully requested that this Amendment Under Rule 116 be entered for the purpose of placing the prosecution record in better condition for appeal.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicants request that this be considered a petition therefor. Please charge the required petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fee or credit any excess to Deposit Account
No. 14-1263.

Respectfully submitted,
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